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Attorney for Debtor
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Michael Fakhoury, Esq. (MAF 5339)

PRESENTMENT DATE: MARCH 11, 2020
PRESENTMENT TIME: 8:30 A.M.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
POUGHKEEPSIE DIVISION**

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In re:

FRANK G. FLORY,

**CHAPTER 13
CASE NO. 19-36964(CGM)**

Debtor.

-----X

**NOTICE OF MOTION TO AVOID JUDICIAL LIENS
PURSUANT TO 11 U.S.C. SECTION 522(f)**

PLEASE TAKE NOTICE, the debtor named herein, by Michael A. Fakhoury, his attorney will present before Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, at the Courthouse located at 355 Main Street, Poughkeepsie, New York 12601 on **March 11, 2020 at 8:30 a.m.**, or as soon thereafter as counsel can be heard, for an Order to Avoid Judicial Liens pursuant to 11 U.S.C. Section 522(f), and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be served and filed at least seven (7) days prior to the return date thereof.

Dated: Fishkill, New York
February 20, 2020

MICHAEL A. FAKHOURY, P.C.
/s/ Michael A. Fakhoury
Michael A. Fakhoury, Esq.
Attorney for Debtor
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Fishkill, NY 12524
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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In re:

FRANK G. FLORY,

**CHAPTER 13
CASE NO. 19-36964(CGM)**

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**MOTION TO AVOID JUDICIAL LIENS
PURSUANT TO 11 U.S.C. SECTION 522(f)**

TO: Honorable Cecelia G. Morris, Chief U.S. Bankruptcy Judge

1. The debtor filed a Chapter 13 Bankruptcy petition in this Court on December 11, 2019, and the following facts are provided upon information and belief.
2. At the time of the filing of the petition, the debtor was the joint owner of, and resided at, 26 Purse Lane, Hopewell Junction, New York 12533 (the "Property").
3. On or about February 6, 2020, Alan Cassell of Century 21 Alliance Realty Group, performed an appraisal of the debtor's property and determined that it has a fair market value of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00). Annexed hereto as **Exhibit "A"** is a copy of said Appraisal.
4. At the time of the filing of the petition herein, said property was encumbered by a first mortgage lien held by PHH MORTGAGE CORPORATION ("PHH") in the sum of FIVE HUNDRED SEVENTY FOUR THOUSAND SEVEN HUNDRED SIXTY FIVE DOLLARS AND SEVENTY FIVE (\$574,765.75). (See Claim No. 6 filed with this Court).
5. The debtor claimed a homestead exemption pursuant to 11 U.S.C. §522(d)(1). (See Schedule C of the debtor's petition filed with this Court).

6. MAIN STREET ACQUISITION CORP. A/P/O HSBC BANK NEVADA, NA, previously obtained a judgment against the debtor, FRANK G. FLORY, in the total amount of THREE THOUSAND ONE HUNDRED EIGHT AND THIRTY SIX CENTS (\$3,108.36) and that judgment was filed with the DUTCHESS County Clerk on August 12, 2010, appearing at Liber 3155 and Page 1244. Annexed hereto as **Exhibit "B"** is a copy of the transcript of judgment.
7. WILLIAMS LUMBER, INC., previously obtained a judgment against the debtor, FRANK FLORY d/b/a Flory Construction, in the total amount of SIX THOUSAND SIX HUNDRED FIFTY DOLLARS AND TWENTY THREE CENTS (\$6,650.23) and that judgment was filed with the DUTCHESS County Clerk on June 25, 2013, appearing at Document #1688C, Liber 3160 and Page 1279. Annexed hereto as **Exhibit "C"** is a copy of the statement for judgment.
8. As the unavoidable lien of the first mortgage totals the sum of FIVE HUNDRED SEVENTY FOUR THOUSAND SEVEN HUNDRED SIXTY FIVE DOLLARS AND SEVENTY FIVE CENTS (\$574,765.75), and the debtors' property having a fair market value of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00), the judicial liens held by MAIN STREET ACQUISITION CORP. A/P/O HSBC BANK NEVADA, NA and WILLIAMS LUMBER, INC., impair the debtor, FRANK G. FLORY'S, homestead exemption to which he is entitled pursuant to Civil Practice and Rules §5206 and Debtor and Creditor Law Article 10A.
9. Accordingly, pursuant to 11 U.S.C. §522(f)(2)(A), the debtor may avoid the aforementioned judicial liens in their entirety.

WHEREFORE, it is respectfully requested that the motion of the debtor to obtain an Order pursuant to U.S.C.522(f) avoiding the judicial liens against the debtor, Frank G. Flory's

homestead be granted as well as such other and further relief as the Court seems just and proper.

Dated: Fishkill, New York
February 20, 2020

MICHAEL A. FAKHOURY, P.C.

/s/Michael A. Fakhoury
Michael A. Fakhoury, Esq.
Attorney for Debtor
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